

IN THE UNITED STATES DISTRICT COURT  
IN AND FOR THE DISTRICT OF DELAWARE

KATHRYN L. FITZGIBBON, \*  
LAUREN M. FLEMING, and \*  
ALL SIMILARLY SITUATED CURRENT \*  
AND FORMER EMPLOYEES OF \*  
ING BANK, fsb, AND ITS WHOLLY \*  
OWNED SUBSIDIARIES, \*  
Plaintiffs, \*  
\* \* \* \* \*  
C.A. NO. 07-735 (JJF)

V.

ING BANK, fsb, (a Delaware corporation), \*  
and ALL OTHER WHOLLY OWNED \* JURY TRIAL DEMANDED  
SUBSIDIARIES OF ING BANK, fsb, \*  
WHICH HAVE EMPLOYED \*  
SIMILARLY SITUATED CURRENT \*  
AND FORMER EMPLOYEES SINCE \*  
November 15, 2004, \*

## **PLAINTIFF'S RULE 26(a) PRE-DISCOVERY DISCLOSURES**

Plaintiffs, Kathryn Fitzgibbon and Lauren Fleming, by and through their undersigned attorney, hereby exchange the following Pre-Discovery Disclosures, pursuant to Fed. R. Civ. P. 26(a)(1).

## RESERVATIONS

1. Plaintiffs' Initial Disclosures are made without waiver of, or prejudice to, any objections Plaintiffs may have. Plaintiffs expressly reserve all objections, including but not limited to: (a) relevance; (b) attorney-client privilege; (c) work-product protection; (d) any other applicable privilege or protection under federal or state law; (e) undue burden; (f) materiality; (g) overbreadth; (h) the admissibility in evidence of these Initial Disclosures of the subject matter thereof; and (i) producing documents containing information disclosed or transmitted to any state or federal agency, to the extent such

information is confidential and not required to be disclosed under applicable law. All objections are expressly preserved, as are Plaintiffs' rights to move for a protective order. Plaintiffs reserve the right to retract any inadvertent disclosures of information or documents that are protected by the attorney-client privilege, the work product doctrine or any other applicable protection.

2. Plaintiffs have not completed their investigation of this case and reserve the right to clarify, amend, modify, or supplement the information contained in these Initial Disclosures if and when it obtains supplemental information, to the extent required by the Federal Rules of Civil Procedure.

3. Plaintiffs' Initial Disclosures are made subject to and without limiting any of the foregoing.

#### **PLAINTIFF'S RULE 26(a) PRE-DISCOVERY DISCLOSURES**

I. The name and, if known, the address and telephone number of each individual likely to have discoverable information relevant to disputed facts alleged with particularity in the pleadings, identifying the subjects of the information.

- (1) Plaintiff, Kathryn L. Fitzgibbon, who can be contacted through her attorney, Timothy J. Wilson, Martin & Wilson, P.A., 1508 Pennsylvania Ave, Wilmington, DE 19806, (302) 777-4681.
- (2) Plaintiff, Lauren M. Fleming, who can be contacted through her attorney, Timothy J. Wilson, Martin & Wilson, P.A., 1508 Pennsylvania Ave, Wilmington, DE 19806, (302) 777-4681.

The following individuals, either formerly or currently employed with ING Bank, fsb, Plaintiffs' employer, were employed in the same division as the Plaintiffs:

- (3) Ashley Stokes, Manager
- (4) Kathy MacFarlane, Head of Corporate Communications
- (5) Jeffery Mirabello, Public Relations Assistant
- (6) Denae Barlow, Community Relations Assistant
- (7) Dina Bogino, Public Relations Assistant
- (8) Christine Givens, Communications Coordinator
- (9) Brenda Woods, Assistant
- (10) Karen Halesky, Summer Intern

(11) Amy Wang, Summer Intern

The following individuals are ING Bank, fsb employees familiar with the Plaintiffs, their treatment by the parties in this instant litigation, and have information regarding the practices of the employer:

- (12) James Kelly, Chief Operating Officer
- (13) Cindy Sroka, Human Resources
- (14) Margot Williams, Community Relations Manager
- (15) Rick Perles, Head of Human Resources
- (16) Jaime Rehm, Marketing
- (17) Elodie Hyndman, Marketing
- (18) Laura Lubin Rossi, Marketing
- (19) Michelle Wysocki, Former Employee
- (20) Colleen Fitzpatrick, Former Employee
- (21) Barbara Heitz, Former Employee
- (22) Renee Roberts, Former Employee
- (23) Kate Shaughnessy, Former Employee
- (24) Jill Herriot, Former Employee
- (25) Brad Miller, Former Employee
- (26) Chris Williams, Former Marketing Director
- (27) Kelly Toton
- (28) Carolyn Imperato
- (29) Amy Dolan
- (30) Mike Peters

II. A copy of, or a description by category and location of, all documents, data compilations, and tangible things in the possession, custody, or control of the party that are relevant to disputed facts alleged with particularity in the pleadings.

- (1) Letter from Cathy MacFarlane to Kathryn Fitzgibbon, dated August 27, 2007
- (2) Letter from Cathy MacFarlane to Lauren Fleming, dated August 27, 2007
- (3) General Release and Severance Agreement, signed by Lauren M. Fleming, dated September 9, 2007
- (4) General Release and Severance Agreement, signed by Kathryn Fitzgibbon, dated September 10, 2007

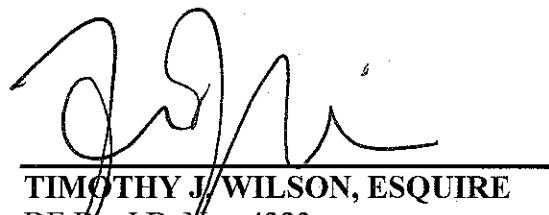
III. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34 the documents or other evidentiary material, not privileged or protected from disclosure, on which such computation is based, including materials bearing on the nature and extent of injuries suffered.

- (1) To be provided at a later date.

IV. For inspection and copying as under Rule 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment.

(1) Not applicable.

**MARTIN & WILSON, P.A.**



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**TIMOTHY J. WILSON, ESQUIRE**  
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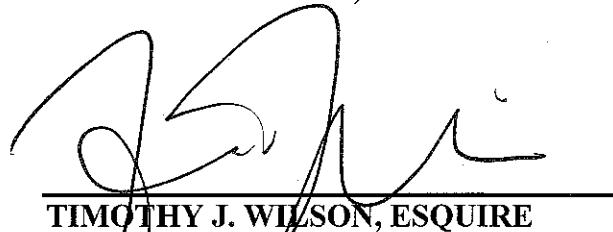
DATED: February 1, 2008

**CERTIFICATE OF SERVICE**

I, Timothy J. Wilson, the undersigned counsel for Plaintiffs in the above-captioned case, hereby certify that the foregoing *Plaintiff's Rule 26(a) Pre-Discovery Disclosures* were filed via CM/EMF on February 1, 2008 to the following:

Darryl A. Parson, Esquire  
Drinker Biddle & Reath LLP  
1100 N. Market Street  
Wilmington, DE 19801-1254

**MARTIN & WILSON, P.A.**



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*Attorney for Plaintiffs*

DATED: February 1, 2008